
EVIDENCE REGARDING ENTRIES IN BOOKS OF ACCOUNT

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ABSTRACT

This paper examines the admissibility and probative value of entries in account books under Section 34 of the Indian Evidence Act. It explores their relevance in legal proceedings, considering historical context and judicial evolution. Additionally, it assesses the credibility of such entries and addresses challenges in their use as corroborative evidence. Through analysis of legal precedents and literature, the study aims to enhance understanding of their evidentiary value in India's justice system.

INTRODUCTION

In the context of legal disputes and litigations, the Indian Evidence Act's Section 34 plays a crucial role in determining the relevancy and probative value of entries in books of account. The admissibility of such entries, maintained either physically or in electronic form, is subject to the condition that they are regularly kept in the course of business. While these entries can provide valuable insights into financial transactions, they cannot, on their own, hold a person liable. The principle of self-serving statements not being sufficient evidence applies here, and entries must be corroborated with independent evidence to establish their trustworthiness.

RESEARCH OBJECTIVES:

- 1) To critically analyze Section 34 of the Indian Evidence, Act and its implications on the admissibility of entries in books of account.
- 2) To examine the historical evolution of the legal principles governing the use of entries in books of account as evidence.
- 3) To assess the credibility and reliability of entries in books of account, considering

factors that may affect their probative value.

- 4) To identify the challenges and limitations associated with the use of such entries as corroborative evidence in legal proceedings.

RESEARCH METHODOLOGY:

- 1) This research will adopt a qualitative approach, relying on an extensive review of relevant legal literature, statutes, and case laws.
- 2) Secondary data analysis will be employed to examine court judgments and legal commentaries, providing a comprehensive understanding of the subject matter.
- 3) The study will focus on Indian case laws from diverse jurisdictions to ensure a comprehensive coverage of precedents.
- 4) Furthermore, content analysis will be used to identify recurring themes and patterns in the interpretation and application of Section 34.

RESEARCH QUESTIONS FORMULATED:

- 1) What are the legal requirements for entries in books of account to be considered relevant and admissible under Section 34 of the Indian Evidence Act?
- 2) What factors contribute to the probative value of entries in books of account, and how do courts assess their credibility and reliability?
- 3) What are the limitations and challenges associated with using entries in books of account as corroborative evidence in legal proceedings?
- 4) How has the interpretation and application of Section 34 evolved over time, and what are the implications of key judicial precedents on the use of such entries as evidence?

By addressing these research questions, this study seeks to provide a comprehensive analysis of the relevancy and probative value of entries in books of account under the Indian Evidence Act, contributing valuable insights to legal practitioners, scholars, and policymakers.

RELEVANCY AND PROBATIVE VALUE OF ENTRIES IN BOOKS OF ACCOUNTS: DECONSTRUCTING SECTION 34 OF THE INDIAN EVIDENCE ACT

The significance and evidentiary value of entries in books of accounts are outlined in Section 34 of the Indian Evidence Act. According to this provision, entries made in books of accounts, whether traditional or electronic, are deemed relevant when they pertain to a subject under the court's scrutiny. However, it's important to note that these entries alone cannot serve as conclusive evidence to hold any individual accountable for liability.¹

Example- A sues B for Rs.1000 and presents entries from his account records indicating B's indebtedness to him for this sum. While these entries hold relevance, they alone are insufficient to establish the debt without additional evidence.

As a general rule, an individual's own statement cannot serve as evidence in their favor, although there are instances where it may be considered corroborative evidence. The entries outlined in Section 34, being actions taken by the individual themselves, must be approached with caution. However, these statements are generally admissible based on similar considerations that lead courts to accept certain statements as evidence when made by deceased individuals who cannot testify.

Traditionally, such entries were not admitted in English Common Law unless they were detrimental to the person making them or were made in the course of business by a deceased individual. However, equity courts have progressively broadened this exception, now recognizing regularly kept books of account as evidence. The underlying principles of this recognition include:

- 1) The regularity and system employed in maintaining these books ensure their accuracy.
- 2) Habit plays a significant role in preventing inadvertent inaccuracies and mitigating the temptation to make false statements.
- 3) Since these books document the routine business transactions, errors are likely to be detected and corrected.

¹ The Indian Evidence Act, 1872, s 34

4) Misstatements in such books typically require a deliberate and systematic plan of falsification.

5) In certain cases, the person making the entries may be duty-bound to their employer, thereby reducing the likelihood of errors.

Court in **Poole v Dicas**² the court established that a clerk typically has no incentive to fabricate entries in account books; rather, their motivation lies in accurately recording transactions to avoid repercussions from their employer. Additionally, when entries are made in a book accessible to multiple clerks, any false entries would likely be quickly identified and rectified.

The principle of admitting account books or shop books as evidence acknowledges two longstanding exceptions to the rule against hearsay: the necessity principle and circumstantial probability.

Books of Account Regularly Kept in the Course of Business

Books of account, as defined in Section 34 of the Indian Evidence Act, refer to collections of sheets of paper securely bound together, forming a cohesive whole. Loose sheets or scraps of paper are not considered books, as they can be easily detached and replaced. The term "book" implies a permanent binding that cannot be easily altered, distinguishing it from loose collections of papers.

In the case of **Mukundram v. Dayaram**³, the court ruled that books of account must be securely bound and intended for permanent use as a cohesive volume, rather than loose sheets of paper. Thus, unbound sheets, regardless of content, do not qualify under Section 34. In business terms, an "account" refers to a formal statement of monetary transactions between parties in contractual or fiduciary relationships. "Regularly Kept" means that entries were made contemporaneously with the transactions.

In **CBI vs V.C. Shukla**⁴, the Supreme Court highlighted that account books should be in spiral notebooks or pads, not loose sheets. The court emphasized that an account involves transactions between two parties, like a seller and a purchaser or a creditor and a debtor. The diaries in

² Poole v Dicas [1835] 131 E.R. 1267

³ Mukundram v. Dayaram 1914) AIR Nag. 44.

⁴ CBI v VC Shukla (1998) 3 SCC 410.

question were deemed inadequate as they lacked crucial details such as debits, credits, and specific transaction dates. They seemed to be personal memoranda without regular maintenance or enough information to verify transactions.

From a straightforward interpretation of the Section, it's evident that for an entry to be relevant, it must be demonstrated that it's made in a book, which qualifies as a book of account, and that this book has been consistently maintained in the course of business.

How Account Books can be admissible as Evidence?

Account books can be admissible as evidence if they meet certain criteria. An account book lacking balance updates for six consecutive days might lack credibility in court. Original entries are preferred, but copies are acceptable if the original is unavailable.

In the **Jain Plastic Industries v Gopi Chand Case**⁵, the tribunal questioned the validity of ledger accounts submitted. Although prepared by the tenant, the tribunal dismissed them due to blank pages in the ledgers. However, it's recognized that ledgers may have blank pages, as they accommodate various accounts like banks, customers, and landlords. Thus, the presence of blank pages doesn't invalidate the ledger entries automatically. Entries solely on the last page of a book with many blank or torn-out pages were deemed insufficient as proof.

Account books should adhere to a specific format typical in business practices. While no fixed rule dictates the format, entries should reflect regular business transactions. The suitability of the format depends on the nature of the business; for instance, a factory's accounts should be maintained regularly, while a shopkeeper's account books may not require such frequency. This highlights that the format of account books is a factual consideration rather than a legal requirement.

Proof of Books of Accounts

Proof of books of accounts requires no presumption of correctness. It necessitates calling upon the clerks or individuals knowledgeable about the entries to testify to their regular maintenance and accuracy. Statements cannot be said to be properly certified if the auditor who wrote them

⁵ Jain PlasMc Industries v Gopi Chand Case (2002) Appeal (civil) 3199

is alive, but has not been examined.

However, in **Emperor v. Narbada Prasad**, their lordships observed as follows: "The legislature threw out all formal evidence that the book was kept in the ordinary course of business. It was material evidence as to whether the books in question were books of account and were regularly kept in connection with the business."

In **Dwarka Dass v. Janki Dass**, the Judicial Committee said that the proper procedure was to call to talk about their authenticity to prove that the books were regularly kept and that they were generally accurate but that is not enough to prove the authenticity of the book, unless the accountant removed the need of such evidence. However, the notes made by the witness can be used in testimony not as such, but to confirm the witness or his memory.

The words "regularly kept" are not synonymous with "correctly kept", the words regularly kept only mean that they should be preserved in a certain way or in some usual form. The form "regularly kept" refers to the accounting system rather than the correctness of the accounting in standard accounting. It is only necessary that the book be such a simple ordinary account book as will explain itself and appear to create a debt on the account of the party against whom it is tendered. Undoubtedly a ledger book kept as daily debits and credits is equally more satisfactory. But there is no need to top up the account every day. The nature of the profession is an important weighting factor in determining whether accounts have been kept regularly. The regularity of checking the accounts of a day trader cannot be the same as that of a real estate agent. Not only their accounting system, but also a measure of timeliness of entries. Account books should not be rejected simply because they are in the hathbhai form when the records clearly show that they have been kept and recorded regularly by a person familiar with accounting.⁶

Section 34 of the Evidence Act does not prescribe a particular form of accounting. It is not necessary that the entries in the accounts were made from day to day or from hour to hour when the transaction took place. But the author of the entry must have personal knowledge of the

⁶ Siddhart Godha, 'Statements Made Under Special Circumstances: With Specific Reference to Section 34' (Legal Services India) < <https://www.legalservicesindia.com/article/1353/Statements-Made-Under-Special-Circumstances:-With-Specific-Reference-to-Section-34.html> > accessed 3rd August 2023

presented facts. Entries from rough books or memoranda hold weight if entered by a knowledgeable individual, even if not made daily.⁷

Probative Value of Entries made in the Course of Business

It has been laid down in **CBI vs V.C. Shukla**⁸ as to the value of entries in the books of account, that such statement shall not alone be sufficient evidence to charge any person with liability, even if they are relevant and admissible, and that they are only corroborative evidence. It has been held that independent evidence is necessary as to trustworthiness of those entries which is a requirement to fasten the liability.

Regarding the evidentiary value of a regular accounting book, the Supreme Court in **Beni v. Bisan Dayal**⁹ recognized that the entries made in the accounts are not enough in themselves to hold someone responsible, because the man cannot be allowed to prove himself with it, he decides to write in his books behind the backs of the parties. There must be independent evidence of the transaction involving the contributions, and in the absence of such evidence, a party relying on such contributions in support of a claim against another cannot be awarded compensation.

In **Hira Lal vs. Ram Rakha**¹⁰, the High Court rejected the argument that it was proved that the books of account were regularly maintained in the ordinary course of business and therefore all the entries made therein should be regarded as relevant and proved, said that the rule laid down in Section 34 of the An action has been applied which according to the entries made in the accounts regularly kept in the course of business are significant whenever they relate to a matter which the Court must examine. An important condition is that entries alone are not enough to hold someone accountable.

Therefore, it is not enough to simply prove that the company's accounts have been regularly kept and its entries are correct. In addition, the person who relied on these entries must prove that they were in accordance with the facts. Clearly, even if the aforementioned requirements

⁷ Ibid

⁸ Supra (n 4)

⁹ (1921) Civil Revision No. 301, Madhya Pradesh High Court.

¹⁰ Hira Lal v. Ram Rakha (1949) All 677

are met and the entry is accepted as material evidence, the statement made therein alone is not sufficient evidence to prosecute someone.

Thus, it can be seen that if the first part of the episode talks about the importance of the marking as evidence, the second part talks negatively about its evidential value in prosecuting a person. Therefore, the courts must first find out if the entries in the documents to which they concern meet the requirements defined in the previous paragraph to be admissible as evidence, and if this question is answered in the affirmative, then only its evidentiary value needs to be assessed.

Can proceedings be initiated based on random sheets and loose papers? CBI vs. V.C. Shukla¹¹ found that any unscrupulous person can make unilateral entries against someone's name on any paper or computer Excel sheet at any time. Since there is no other verifiable material about the payment, the matter directing the investigation will not be started, nor against a large number of people named in the documents. Such entries were not considered even prima facie acceptable. Ordering an inquiry on the basis of such documents would be very dangerous and no constitutional officer/officer can act independently according to constitutional duties. Based on the compiled material, no case can be asserted which is not legally cognizable.

The Supreme Court dealt with entries in **Jain Hawala diaries**¹², notebooks and files which do not contain loose articles in the form of "account books" and said that such entries on loose papers/sheets are irrelevant and inadmissible under Section 34 . In accordance with the Evidence Act and that they are only acceptable if the entries are regularly in the books, depending on the nature of the profession.

Courts must exercise caution in ordering an inquiry against any important constitutional functionary, officers or any person in the absence of compelling legally cognizable material. If the material that is the subject of the investigation is not important in itself and is not admissible as evidence, the suspicion of an offense is presented even before the investigation begins. If the court permits, an inquiry may be ordered against some senior person on the basis of an irrelevant or erroneous entry made by a minor person or business house, which is also not kept in the usual accounting, but in random articles.

¹¹ Supra (n 4)

¹² L.K. Advani v. Central Bureau of InvesMgaMon, (1997) Cri LJ 2559.

There must be significant and acceptable evidence and convincing reason, prima facie credible and supported by other facts, showing that the particular third person against whom the accusations are made was actually involved in the matter or did so by some act during that time, can. be involved with random entries. If the court does not require all these, the judicial process can be very easily abused against all and sundry for ulterior motives and no democracy can survive when investigations against important constitutional actors are lightly launched on fictitious grounds. marks, if the deposit does not contain convincing and acceptable material, so that the freedom of the person is not unnecessarily threatened.

Although this Court in its judgment in **Lalita Kumari Vs. Government of Uttar Pradesh**¹³ and others have said that where an offense arises out of a complaint and a cognizable offense is established, an inquiry is usually ordered and the charge sheet is vacated. claims may be refined during investigation. But the decision in Lalita Kumar is of no help to persons who seek judicial inquiry on the basis of irrelevant documents which are themselves not legally comprehensible and inadmissible in evidence and thus evasive. Such a legally unsustainable matter cannot be ordered.

ANALYSIS

Section 34 of the Indian Evidence Act is a crucial provision that deals with the admissibility and relevancy of entries in books of accounts as evidence in legal proceedings. This section recognizes the probative value of business records and aims to strike a balance between ease of evidence and the need for corroborative proof. Let's critically analyze this section, considering landmark judicial pronouncements that have shaped its interpretation:

1. Relevance of Regularly Kept Account Books:

The primary condition for admissibility under Section 34 is that the entries must be found in books of accounts that are regularly kept in the course of business. The requirement of regularity is based on the assumption that regularly maintained books are more likely to be accurate and reliable. This aspect was elucidated in the case of *Poole v Dicas*, where the court emphasized the habit of making regular entries, which minimizes the chances of misstatements.

¹³ Lalita Kumari vs Government of UYar Pradesh and others (2014) 2 SCC 1

2. Need for Corroboration:

While Section 34 allows entries in account books to be relevant evidence, it explicitly states that they are not sufficient on their own to charge any person with liability. This aspect was highlighted in the illustration provided with the section itself. The need for corroboration stems from the inherent bias of the party maintaining the books. The principle of corroboration was reiterated in the landmark case of *Beni v. Bisan Dayal*, where the Supreme Court held that independent evidence of the transaction is essential to support the entries in the account books.

3. The Distinction between Regularly Kept and Irregular Books:

The courts have consistently emphasized the distinction between regularly kept account books and irregular ones. Regularly kept books, maintained with a systematic process, are considered more trustworthy and hence are accorded greater weight as evidence. On the other hand, books with irregularities, such as unbound sheets or missing entries, may be deemed inadmissible. The case of *Jain Plastic Industries v Gopi Chand* highlights the significance of proper bookkeeping and its impact on the evidentiary value of account books.

4. Contemporaneity and Detail of Entries:

Another aspect scrutinized by the courts is the contemporaneity of the entries in the account books. Entries made at or near the time of the transaction carry more weight as they are less likely to be influenced by hindsight or manipulated for ulterior motives. Furthermore, entries lacking specific details or made on a monthly or irregular basis may face challenges in terms of their probative value, as seen in *CBI vs V.C. Shukla*.

5. Format and Presentation of Account Books:

The format and presentation of account books also play a role in their admissibility. While there is no prescribed form for account books under Section 34, they should be presented in a manner that allows easy understanding of the transactions and the liabilities involved. The case of *Jain Hawala diaries* emphasizes that loose sheets or random papers cannot be considered as proper account books and may not be admissible under this section.

6. Implications for Investigations and Constitutional Functionaries:

The Supreme Court's decisions in *CBI vs V.C. Shukla* and *Lalita Kumari vs Government of*

Uttar Pradesh have addressed the implications of using random sheets and loose papers as evidence in investigations. The courts have stressed the need for credible and admissible material to initiate investigations against important constitutional functionaries, ensuring that the process is not abused for ulterior motives.

CONCLUSION

In conclusion, Section 34 of the Indian Evidence Act recognizes the relevance of entries in account books as evidence, subject to certain conditions. The section strikes a balance between ease of evidence and the need for corroborative proof by requiring regularity, contemporaneity, and accuracy of entries. Landmark judicial pronouncements have clarified and elaborated on the application of this section, highlighting the importance of proper bookkeeping and the limitations of using irregular or unreliable account books as evidence.

To conclude, I would say that the books of accounts is admissible as Evidence under Section 34 of the Act, but how much weightage would be given to it is a question of fact. Furthermore, any kind of account books would be admissible under Section 34 if they are regularly made and person making it is aware about the facts stated in it. So even if accounts book is made in hathbhai form then also it would be admissible, if it satisfies the above requirements. Furthermore, if accounts are made from a rough book than also it would be admissible if the rough book is maintained regularly.

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